

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA No. 1451 of 1992

New Delhi, this the 4th day of August, 1997.

Hon'ble Mr. N. Sahu, Member(A)

Dr. K.E. Moses,
Advocate,
Central Administrative Tribunal,
Principal Bench, New Delhi
R/o 281, DDA Flats, Jaidev Park,
East Punjabi Bagh,
New Delhi - 110 026

...Applicant

(In-person)

Versus

Union of India : Through

1. The Secretary
Ministry of Railways,
Rail Bhawan,
New Delhi- 110 001

2. Sh. J.L. Kaul,
Formerly Adviser(Vigilance)
Ministry of Railways,
New Delhi presently
G.M. Metro Railways,
Calcutta

3. Sh. D.K. Malik,
Formerly Director(Vigilance
Special Squad),
Ministry of Railways,
New Delhi,
R/o 23, Officers' Transit Flats,
First Floor,
State Entry Road,
New Delhi - 110 001

...Respondents

(By Advocate : Sh. P.S. Mahendru)

ORDER(Oral)

Hon'ble Mr. N. Sahu, Member(A) -

The applicant has not pressed ground No.8(b) and also the ground relating to the withdrawal of the notice of voluntary retirement dated 08.11.1990. Thus, the only ground that survives for consideration at para 8 of the OA is the ground relating to the payment of

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interest on the delayed remittance of settlement dues.

I shall deal with it a little later.

2. The other claim of the applicant relates to the grievance that he is deprived from the benefits of Retired Employees Liberalised Health Scheme (RELHS) - for short, the Scheme. The applicant was initially not interested in the Scheme but as per the statement in Annexure R-2, he signed the proforma, opted to join the Scheme and also consented to deduction of contribution equal to the last month's basic pay. Accordingly, an amount of Rs.2525/- was deducted. Learned counsel for the respondents, Mr. Mahendru has pointed out to Annexure A-7 wherein both the options "may be/may not be" are struck off and he alleged the applicant of ambivalence in this regard. This aspect need not detain us because the consistent stand of the respondents has been that the applicant opted to be and continues to be a beneficiary under the Scheme. When the applicant found that he was not at the receiving end of the benefits Scheme, he approached the authorities for justice or for the refund of the deducted amount. By Annexure R-4 dated 14.10.1991 the respondents authoritatively turned down his request for refund on the ground that the option once exercised to join the RELHS is final and the refund is not permissible at a later stage. Whatever might be the initial hesitation of the applicant, the respondents' record shows that there is a clear option exercised by the applicant to join the RELHS as also the order given by the respondents not to refund the amount deducted on the ground that the option has become irrevocable. In that view of the matter the logical next step would be to enable the applicant, a retired Government servant

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to avail of all the medical facilities admissible under the rules. Mr. Mahendru has submitted that every retired railway employee is advised to contact the Zonal Railways Headquarters' Office at the place where he intends to settle down and Annexure R-4 indicates the same direction. "It appears that the applicant has not so far contacted the concerned railway officer for getting the medical card and for which the applicant has to blame himself." - (Para 4.8 towards the end at page 6 of the counter affidavit). The dispute, therefore, can be resolved by issuing a simple direction. Within two weeks from today the applicant shall contact the concerned railway officer for getting the medical card who shall promptly deliver to him the medical card and extend to him all the medical facilities in this regard from the date of issue.

3. Applicant, in principle and in law, has become entitled to all the benefits under the Scheme from the date his option was accepted by the respondents. That being the case, the applicant shall within four weeks from today, make a representation for reimbursement of medical expenditure along with all his medical bills, spent from the date of retirement to this date with full particulars and vouchers to the Secretary, Railway Board for consideration who in turn shall forward the same to the Director (Medical) concerned. The latter authority shall examine the claims of the applicant with regard to admissibility and reimbursement of the expenditure in accordance with the rules on the subject and dispose of the same within six weeks from the date of receipt of the applicant's representation by a speaking order. This

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direction is given on the ground that as his option, according to the respondents, has become final and irrevocable all the benefits that the Scheme offers to him ensure from the date of his retirement and the technical plea of non-issue of the medical card and non-contacting the medical authorities should not deprive the applicant of medical facilities that are due to him.

4. With regard to interest the learned counsel for the respondents submits that this is not a case of conventional retirement on the date of superannuation and the respondents did not get adequate time to process the papers so that retirement benefits could be handed over on the date of retirement. The applicant submits that he had given clear three months notice to the respondents by submitting his voluntary retirement letter on 21.08.1990 and the order of voluntary retirement was passed w.e.f. 30.11.1990. That being so, there was no justification according to the applicant for the delay.

5. The post-retirement benefits are handed down to the applicant on the following dates:

DCRG	-	18.03.1991
Leave Encashment	-	13.05.1991
PF Balance	-	16.08.1991
Pension	-	01.06.1991

As interest automatically accrues to the PF balance till the date of payment no orders need be given separately and there is no justification in claiming interest.

With regard to DCRG, I do not think there is any justification for claiming interest because this is an amount against which the respondents have a right to adjust all debts due: short term or long term under Rule 15 of Railways' Pension Rules. That was the amount which was paid as early as on 18.03.1991 and there is no justification for claiming any interest on DCRG. That leaves, therefore, two other items:

(i) Leave Encashment and (ii) Pension. The applicant himself has cited a decision of the Supreme Court in

State of Kerala Vs. M. Padmanabhan Nair - AIR 1985 SC

356 wherein the Apex Court held that the interest for the delay in payment of retirement dues commences from expiry of two months from the date of retirement.

Another Supreme Court decision was cited - R.R. Bhanot Vs. Union of India & Ors. - (1994) 2 SCC 406. That was a case where 12% interest was allowed although the delay was attributed to certain uncertainty as to which State the employee was finally allocated on account of re-organisation of States. Learned counsel for the respondents submitted that although all the papers were prepared and kept ready, an incomplete application was received from the applicant only on 12.12.1990. There was also delay on the part of the applicant in exercising the option regarding medical scheme. It was only in February, 1991 that Sr.DPO, Railway could finally send the details of outstanding dues amounting to Rs.2030/- to be recovered from the applicant.

5. I have heard the learned counsel for the respondents. There was the notice period of three months available to the respondents. I shall also allow a further period of two months from the date of voluntary

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retirement as laid down by the Supreme Court in Nair's case. Interest shall, therefore, be calculated and paid at the rate of 12% per annum two months after the date of voluntary retirement, namely, from 01.02.1991 only on the amounts paid in respect of leave encashment and pension.

OA is disposed of as above. No costs.

Parasuram Sahu,
(N. Sahu)
Member (A)

/Kant/